

UPDATE CORONAVIRUS (COVID-19)



Stay informed. Take precautions. Stay safe.

Dear Members,

Mass-ALA submitted questions you had regarding quarantine policy to EOE, and they have responded with the answers below. Thank you for all the good work you are doing in making your best efforts to keep residents safe.

Thank you for submitting questions to the Executive Office of Elder Affairs (EOEA) for review. The questions have been organized by topic and lightly edited for clarity.

1. "EOEA has informed our communities that if a resident leaves the community for a leave of absence or a hospitalization etc., that they do not need to quarantine for 14 days when they return and that we cannot enforce quarantine due to tenant/landlord laws."

Response: ALR residents should be viewed as tenants of the ALR. Traditional care residents and supervised special care residents are free to come and go from the ALR and may only be required to quarantine if subject to an order by the local board of health. In lieu of such an order, residents who (1) have a known or reasonably suspected exposure to COVID-19, or (2) present COVID-19 symptoms, may be asked to self-quarantine. It should be noted that ALR administrators, staff, or their families are not subject to a 14-day quarantine for departing their residences absent known or reasonably-suspected exposure to COVID-19 or the presentation of any COVID-19 symptoms.

2. "Local health departments are supporting and requesting the 14 day quarantine, which is our current process, or two negative COVID tests 24 hours apart. In the current environment and based upon our recent discussions with Secretary Chen, how do they expect a senior living provider to protect our other residents from those who may not have social distanced, masked and had an unknown direct exposure?"

Response: Each local board of health is charged with making its own decisions in accordance with state law. Absent an order requiring a quarantine or negative tests, residents cannot be required to comply with such a request.

3. "If an ALR resident goes to a medical appointment, a hospital ED, or home visits, and they have a roommate, do they have to be quarantined for 14 days?"

Response: No. Traditional care residents and supervised special care residents may leave and return to their units absent a contrary order from the local board of health. Residents with a known or reasonably suspected exposure to COVID-19 or who have COVID-19 symptoms may be asked to self-quarantine.

4. "DPH advised on their weekly conference call yesterday 7/8 that residents discharged from a hospital should be quarantined even if they tested negative for COVID-19. Will EOEA allow us to quarantine them?"

Response: An ALR can recommend that an individual discharged from a hospital voluntarily quarantine in their units for the safety of the community, but it cannot require a resident to quarantine.

5. "EOEA and the Ombudsman are providing advice in direct conflict with the Governor's order, CDC guidance and the local health department. These are the challenges that we discussed with Secretary Chen and this is a prime example of steps we are taking to protect the residents and team members that are in conflict with what Madam Secretary herself requested, 'how can you assure me that you are protecting residents so we can move forward with re-opening'. We need consistency and the support of EOEA who should be in support of the Governor's guidance not opposed."

Response: EOEA is not aware of any specific advice or issue that is in opposition to or in direct conflict with orders or guidance issued by Governor Baker, the CDC, or local health department.

6. "We had a resident with dementia elope and circumstances led us to determine we would quarantine the Resident. Family and Resident were fine with it. EOEA called responding to the incident report filed and told us we didn't have the right to quarantine."

Response: Traditional care residents may leave and return to the ALR. Special care residents should not leave the ALR without being accompanied by ALR staff or a family member who can account for their whereabouts. If a special care resident elopes and cannot reasonably communicate their potential exposure to COVID-

19, it is reasonable for the ALR to take steps in an effort to quarantine the resident due to the inability to ascertain whether the special care resident has had an exposure to COVID-

19. Quarantine is always permissible if the resident (or his or her legal representative) provides consent.

7. "I think the only advisory from EOEA about quarantine policy was an FAQ response with regard to special care... The Governor has put out emergency guidance that supersedes existing statutes, rules, and regulations in the interest of public safety. Residences are appropriately following public health guidance and EOEA could allow them to continue to do so by promulgating guidance that supersedes landlord/tenant law in as limited a fashion as residences deem appropriate to protect all residents..."

Response:

Guidance issued for long term care facilities does not apply to ALRs (unless specified), which under Massachusetts law, follow a residential model. EOEA has no statutory or regulatory authority to supersede landlord/tenant law. Quarantine is only permissible if ordered by a local board of health, or the resident (or the resident's legal representative) consents to a quarantine upon request by an ALR should a resident present symptoms consistent with COVID-19 infection or the resident has had a known or reasonably suspected exposure to COVID-19.

1. In summary, the underlying issue related to these questions rests with whether an ALR can require a resident to quarantine: An ALR cannot require a resident to quarantine unless ordered by a local board of health.
2. Voluntary quarantine is always possible upon consent of the resident or legal representative.
3. DPH guidance or orders for long-term care facilities do not apply to ALRs unless specified. When applicable, EOEA may adopt aspects of DPH guidance or orders consistent with governing law and regulations.

If you have any questions, please contact us at Mass-ALA@mass-ala.org

**The information provided in this COVID 19 update is solely for general informational purposes to assist in understanding the evolving guidance regarding the current COVID 19 public health threat. It is not intended to be a primary public health or medical resource, but is provided as a clearinghouse for or compilation of various guidance issued by official and related sources.*

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